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DREIER LLP Susan Formicola 499 PARK AVE NEW YORK, NY 10022			EXAMINER CHORNESKY, ADAM B	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/662,776

Applicant(s)

RIEDEL ET AL.

Examiner

ADAM CHORNESKY

Art Unit

3688

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-109 is/are pending in the application.
- 4a) Of the above claim(s) 13, 51 and 54-109 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-50, 52, and 53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 June 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a Final Office Action in response to Amendment received June 4, 2008. Claims 13 and 51 are cancelled, and Claims 54-109 are withdrawn by the Applicant. Claims 1-12, 14-50, 52 and 53 are pending.

Response to Amendment

2. The following are responses to applicants' amendments to objections to specification, drawings, claims, and 112 second paragraph rejections of the first action on the merits.

Claims 1, 14, 16-18, 20-23, 32, 41, 42, 45, 49, 50, 52, and 53 have been amended by the Applicants. Examiner has reviewed these amendments and affirms that Applicants' amendments in fact add no new matter, and have overcome the original objections (Claims 14, 22, and 23) and relevant 35 USC § 112 2nd rejections, with the following exceptions: Claims 16, 45, and 49 continue to be rejected under 35 USC § 112 2nd paragraph.

Applicants have added claims 24-31, 33-40, 43, 44, and 46-48 as new. Examiner has reviewed these new claims against the original specification and affirms that no new matter has been added. Of the new claims, the following continue to be rejected under 35 USC § 112 2nd paragraph: Claims 31, 38, and 47.

Applicants' amended drawing for Figure 1 filed June 4, 2008 has been reviewed by the Examiner. In view of the amendment, the Examiner hereby withdraws the original objection.

Applicants' amendments to the specification filed June 4, 2008 for par. 12 adding an explanation of equivalence between the AMS and ADM (original pgs. 4-5), and pars. 43 and 57 replacing the Figure 1 reference to the NDVR control center 114 with 134 (original pg. 10, line 17 and pgs. 16, line 21 and 17, line 7 respectively) have been reviewed by the Examiner. In view of Applicant's amendments, the Examiner hereby withdraws the original objections.

Specification

3. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code on pg. 10, lines 5-6, pg. 21, lines 1 and 9, and pg. 44, lines 10-11 "incorporation by reference". Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 16 recites the limitation "the external targeting system" in line 2. There is insufficient antecedent basis for this limitation in the claim. Examiner observes that Applicant may have intended to depend this claim from claim 15 where "an external targeting system" is recited.

Claim 31 recites the limitation "the segmenting" in line 1. There is insufficient antecedent basis for this limitation in the claim. Examiner observes that Applicant may have intended to depend this claim from claim 29 where "each segmented program copy" is recited.

Claim 49 recites the limitations "the programming content" in line 10, and "the program advertising zone" in line 11. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 43, 45, 49, and 50 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Based on Supreme Court precedent, a method/process claim must (1) be tied to another statutory class of invention (such as a particular apparatus) (see at least *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing (see at least *Gottschalk v. Benson*, 409 U.S. 63, 71 (1972)). A method/process claim that fails to meet one of the above requirements is not in compliance with the statutory requirements of 35 U.S.C. 101 for patent eligible subject matter. . Here the claims fails

to meet the above requirements because the steps are neither tied to another statutory class of invention (such as a particular apparatus) nor physically transform underlying subject matter (such as an article or materials) to a different state or thing.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-12, 14, 15, 17, 19-21, 24-27, 34-36, 42, 50 are rejected under 35 U.S.C. 102(b) as being anticipated by Hooks et al. (US 6169542 B1).

Claims 1, 24, 34, and 50: Hooks discloses a system and method for creating a program for delivery to a client in a video time shifting architecture, the system comprising:

an advertisement selection system (ADS) operative to select one or more advertisements according to a targeting algorithm and transmit one or more identifiers that uniquely identify the selected advertisements (col. 4, lines 9-11 via editing facility 28 generates advertisements or receives pre-recorded advertisements which are inserted into the original program) and (col. 2, lines 51-63 and figures 5 and 8 via editing facility 28 generates advertisements or receives pre-recorded advertisements which are inserted into the original program);

an advertisement management system (AMS) operative to generate a playlist that identifies content, including a user requested time shifted program and the one or more selected advertisements (col. 2, lines 37-50 via transmitting an advertisement to an interactive video subscriber unit in connection with an interactive video program and receiving, at the head end facility over a return path, a request to register the advertisement in a menu); and

a video server operative to interpret the playlist and deliver the content to the user (col. 7, lines 5-15 and figure 1 via video server 60 multiplexes these two inputs with other optional video inputs, typically through modulation into different frequency bands, and outputs a broadband signal to video distribution medium 56).

Claim 2: Hooks discloses all the elements of Claim 1 and further discloses wherein the AMS generates a playlist that identifies a given one of the one or more selected advertisements as a bumper advertisements for delivery by the video server prior to the user requested program (col. 7, lines 16-22 and figures 1 and 2 via audio-to-data decoder 72 recognizes the audio tones recorded on synchronization channel 44 and generates the corresponding ASCII data codes 38 and couples to processor 74).

Claim 3: Hooks discloses all the elements of Claim 1 and further discloses wherein the AMS generates a playlist that identifies a given one of the one or more selected advertisements as a pause teaser advertisement for delivery by the video server upon receipt of a pause control command (col. 5, lines 51-57 and figures 1, 2

and 3 via when medium 30 is played from its beginning, program-specific data 50 are read and stored in a head end facility processor before full-motion program 36 begins).

Claim 4: Hooks discloses all the elements of Claim 1 and further discloses wherein the AMS generates a playlist that identifies a given one of the one or more selected advertisements as a pause advertisement for delivery by the video server upon the receipt of a pause advertisement control command (col. 8, lines 62-63 and figure 4 via a logo 108 identifies first advertisement 40 as an interactive advertisement).

Claim 5: Hooks discloses all the elements of Claim 1 and further discloses wherein the playlist is indexed according to Normal Play Time (NPT) (applicant defines normal play time in specification pg. 8, lines 7-18 as markers to delimit content within the playlist as per col. 4, lines 54-65 and figures 2 and 3 of Hooks via coordination between a full-motion program 36 recorded on recording medium 30 and exemplary ASCII data codes 38 also recorded on recording medium 30 to mark where advertisements are inserted at predetermined time periods).

Claim 6: Hooks discloses all the elements of Claim 1 and further discloses wherein the video server is operative to receive a pause control command from a client, mark the location in the playlist that corresponds to a point in time when the video server receives the pause command and advance to an advertisement in the playlist

(col. 11, lines 8-17 and figures 6 and 8 via advertisement identifiers for a number of advertisements that were registered in menu database 79).

Claim 7: Hooks discloses all the elements of Claim 6 and further discloses wherein the client displays a pause video still overlay upon transmission of a pause control command (col. 9, lines 5-8 and figure 4 via the subscriber creates a registration request, for example, by pressing a color coded key on subscriber interface 96 or by pressing another designated key or keys on subscriber interface 96).

Claim 8: Hooks discloses all the elements of Claim 7 and further discloses wherein the pause video still overlay comprises operating instructions (col. 11, lines 53-65 and figure 9 via interactive menu 150 includes an intrasystem link (MORE INFO) entry 152, a purchase option (PLACE ORDER) entry 154, a hyperlink (VISIT WEB SITE) entry 156, a delete advertisement from menu entry 158, and a return to advertisement menu entry 160).

Claim 9: Hooks discloses all the elements of Claim 6 and further discloses wherein the video server advances to a pause teaser advertisement in the playlist and begins delivery of the pause teaser advertisement (col. 10, lines 57-63 and figures 1, 4 and 7 via the video still image is then communicated from video server 60 through video distribution medium 56 to set-top box 94).

Claim 10: Hooks discloses all the elements of Claim 9 and further discloses the invention comprising delivering the pause teaser advertisement to the client for display (col. 10, lines 57-63 and figures 1, 4 and 7 via the video still image is then communicated from video server 60 through video distribution medium 56 to set-top box 94).

Claims 11 and 12: Hooks discloses all the elements of Claim 6 and further discloses wherein the video server returns to the location in the playlist that corresponds to a point in time when the video server receives the pause command and commences delivery of the user requested program (col. 11, lines 8-17 and figures 6 and 8 via advertisement identifiers for a number of advertisements that were registered in menu database 79).

Claim 14: Hooks discloses all the elements of Claim 1 and further discloses wherein the targeting algorithm operates on the basis of aggregate viewing information (col. 4, lines 9-12 via a head end facility configured to transmit an advertisement in connection with an interactive video program and receive a request from one of the subscriber units to register the advertisement in a menu).

Claim 15: Hooks discloses all the elements of Claim 14 and further discloses wherein the ADS comprises a connection to an external targeting system (col. 12, lines 59-65 and figures 1 and 7 via task 174 causes processor 74 to invoke web browser 90 from memory 78 to access a first web site 176 related to commercial enterprise 86).

Claim 17: Hooks discloses all the elements of Claim 1 and further discloses wherein the ADS transmits advertisements and advertisement metadata to the AMS for storage in a content storage device (col. 3, lines 63-67 through col. 4, lines 1-8 and figure 1 via the editing facility 28 produces programs on recordable media such as video cassette recorder (VCR) tape for use on the VCRs at the head end unit 54).

Claim 19: Hooks discloses all the elements of Claim 1 and further discloses wherein the video server receives control commands from the user (col. 9, lines 9-19 and figures 1, 4 and 5 via the registration request is forwarded through set-top box 94 over video distribution medium 56 and through video server 60 to an input 107 of processor 74).

Claims 20: Hooks discloses all the elements of Claim 19 and further discloses wherein the video server requests a new playlist from the AMS upon the receipt of a new program initiation command from the user (col. 10, lines 57-63 and figures 1 and 7 via task 132 causes processor 74 to provide a video still image to the digital media server element of video server 60).

Claim 21: Hooks discloses all the elements of Claim 19 and further discloses wherein the AMS determines whether the user is requesting a program with expired local advertising (col. 9, lines 39-52 and figures 1, 5, 6 and 7 via entries to menu database 79 are added and removed in response to requests from any of interactive video subscriber units 22).

Claim 25: Hooks discloses all the elements of Claim 24 and further discloses wherein collecting information comprises collecting client information (col. 9, lines 41-42 via menu database 79 includes menus 92 associated with interactive video subscriber units 22).

Claim 26: Hooks discloses all the elements of Claim 25 and further discloses wherein collecting information comprises collecting program information (col. 9, lines 44-46 via entries to menu database 79 are added and removed in response to requests from any of interactive video subscriber units 22).

Claim 27: Hooks discloses all the elements of Claim 24 and further discloses wherein the client performs an action that invokes the request (col. 9, lines 46-48 via each of menus 92 is customized for the specific subscriber in response to the subscriber's registration requests).

Claim 35: Hooks discloses all the elements of Claim 34 and further discloses wherein the AMS is operative to collect information regarding the requesting client (col. 9, lines 39-52 and figures 1 and 6 via entries to menu database 79 are added and removed in response to requests from any of interactive video subscriber units 22).

Claim 36: Hooks discloses all the elements of Claim 34 and further discloses wherein the AMS is operative to collect information regarding the requested program (col. 7, lines 47-49 and figure 1 via memory 78 includes a database 79 of menus 92, where one each of menus 92 is associated with one each of interactive video subscriber units 22).

Claim 42: Hooks discloses all the elements of Claim 34 and further discloses the invention comprising:

the AMS determining if a given correctly zoned local advertisement has expired;
and

if the correctly zoned local advertisement has expired, the AMS generating a playlist utilizing a replacement local advertisement and the requested program (col. 9 lines 44-46 via entries to menu database 79 are added and removed in response to requests from any of interactive video subscriber units 22).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hooks et al. (US 6169542 B1) in view of Nathaniel (US 20030130887 A1) and Zizzamia et al. (US 20020161609 A1).

Claim 16: Hooks discloses all the elements of Claim 14, but does not disclose wherein the external targeting system is selected from the group comprising a PRIZM system and an AXCIOM system.

Nathaniel teaches on pg. 3 par. 23 lines 33-34 that network data on impressions and click-throughs can be estimated based on zip code based data from Claritas Prizm codes.

Therefore, from the teaching of Nathaniel it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of delivering advertising through an interactive video distribution system of Hooks to include the non-deterministic method and system for the optimization of a targeted content delivery of Nathaniel in order to schedule delivery of targeted content to network devices in an optimal manner that is flexible and can be fine-tuned on the fly (pg. 1 par. 6 lines 1-4).

Zizzamia teaches on pg. 4 par. 37 lines 1-3 that external data sources also include business owner household level demographics from data providers such as Axciom or INFO-USA.

Therefore, from the teaching of Zizzamia it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of delivering advertising through an interactive video distribution system of Hooks to include the quantitative system and method that employs data sources external to an insurance company to generate a statistical model of Zizzamia in order to use external data sources to provide higher demographic accuracy (pg. 1 par. 11 lines 2-5).

11. Claims 18, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hooks et al. (US 6169542 B1) in view of Eldering et al. (US 6941573 B1).

Claim 18: Hooks discloses all the elements of Claim 17, but does not disclose wherein the AMS transmits an acknowledgement to the ADS upon receipt of the advertisement and advertisement metadata.

Eldering et al. teaches on pg. 5 par. 51 lines 1-10 and in figure 4 that the AMS 100 announces the opportunities relating to groups of subavails to various advertisers/ad sources 120.

Therefore, from the teaching of Eldering it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of delivering advertising through an interactive video distribution system of Hooks to

include the method and system for creating one or more advertising avail sections of Eldering in order to provide a method and system for creating groups of avail sections which are manageable (pg. 1, par. 9).

Claim 22: Hooks discloses all the elements of Claim 21, but does not disclose wherein the AMS transmits a request to the ADS to select one or more advertisements for replacement of expired local advertising within the playlist.

Eldering teaches on pg. 5, par 51 and in figure 4 that the AMS 100 announces the opportunities relating to groups of subavails to various advertisers/ad sources 120.

Therefore, from the teaching of Eldering it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of delivering advertising through an interactive video distribution system of Hooks to include the method and system for creating one or more advertising avail sections of Eldering in order to provide a method and system for creating groups of avail sections which are manageable (pg. 1, par. 9).

Claim 23: Hooks discloses all the elements of Claim 20, but does not disclose wherein the AMS transmits a request to the ADS to select one or more local advertisements included in the program as originally broadcast.

Eldering teaches on pg. 5, par 51 and in figure 4 that the AMS 100 announces the opportunities relating to groups of subavails to various advertisers/ad sources 120.

Therefore, from the teaching of Eldering it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of delivering advertising through an interactive video distribution system of Hooks to include the method and system for creating one or more advertising avail sections of Eldering in order to provide a method and system for creating groups of avail sections which are manageable (pg. 1, par. 9).

12. Claims 28-31, 33, 37-40, 43-49, 52 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hooks et al. (US 6169542 B1) in view of Cowan et al. (US 6941573 B1).

Claim 28: Hooks discloses all the elements of Claim 24, but does not disclose the invention comprising recording one copy of a given program for each local advertising zone that the video distribution system services.

Cowan teaches in the abstract lines 1-3 a cable television distribution system in which the head end substitutes different channels for a plurality of separated geographic zones.

Therefore, from the teaching of Cowan it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of delivering advertising through an interactive video distribution system of Hooks to include the television distribution system for signal substitution of Cowan in order to provide a market research signal substitution system which accurately represents the

Art Unit: 3688

demographics of the community being served and which avoids the problems, costs and user resistance of an individually addressed arrangement (col. 2 lines 12-16).

Claim 29: Hooks and Cowan disclose all the elements of Claim 28, but Hooks does not disclose the invention comprising segmenting local advertising out of each program copy and marking each segmented program copy with a zone identifier.

Cowan teaches in the abstract lines 1-3 a cable television distribution system in which the head end substitutes different channels for a plurality of separated geographic zones.

Therefore, from the teaching of Cowan it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of delivering advertising through an interactive video distribution system of Hooks to include the television distribution system for signal substitution of Cowan in order to provide a market research signal substitution system which accurately represents the demographics of the community being served and which avoids the problems, costs and user resistance of an individually addressed arrangement (col. 2 lines 12-16).

Claim 30: Hooks and Cowan disclose all the elements of Claim 29, but Hooks does not disclose wherein collecting information comprises collecting a zone identifier for the zone from which the request originates.

Cowan teaches in the abstract lines 1-3 a cable television distribution system in which the head end substitutes different channels for a plurality of separated geographic zones.

Therefore, from the teaching of Cowan it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of delivering advertising through an interactive video distribution system of Hooks to include the television distribution system for signal substitution of Cowan in order to provide a market research signal substitution system which accurately represents the demographics of the community being served and which avoids the problems, costs and user resistance of an individually addressed arrangement (col. 2 lines 12-16).

Claim 31: Hooks and Cowan disclose all the elements of Claim 28, but Hooks does not disclose wherein the segmenting is performed by identifying indicators for local advertising.

Cowan teaches in the abstract lines 1-3 a cable television distribution system in which the head end substitutes different channels for a plurality of separated geographic zones.

Therefore, from the teaching of Cowan it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of delivering advertising through an interactive video distribution system of Hooks to include the television distribution system for signal substitution of Cowan in order to provide a market research signal substitution system which accurately represents the

Art Unit: 3688

demographics of the community being served and which avoids the problems, costs and user resistance of an individually addressed arrangement (col. 2 lines 12-16).

Claim 33: Hooks discloses all the elements of Claim 24, but does not disclose the invention comprising:

determining if a given correctly zoned local advertisement has expired; and if the correctly zoned local advertisement has expired, generating a playlist utilizing a replacement local advertisement and the requested program.

Cowan et al. teaches in col. 4 lines 35-40 that substitute advertising can then be determined by comparing consumer purchase data collected from selected stores associated with zones receiving the substitute advertising with consumer data collected from selected stores associated with zones receiving normal advertising.

Therefore, from the teaching of Cowan it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of delivering advertising through an interactive video distribution system of Hooks to include the television distribution system for signal substitution of Cowan in order to provide a market research signal substitution system which accurately represents the demographics of the community being served and which avoids the problems, costs and user resistance of an individually addressed arrangement (col. 2 lines 12-16).

Claim 37: Hooks discloses all the elements of Claim 34, but does not disclose wherein the video server records one copy of a given program for each local advertising zone that the video distribution system services.

Cowan teaches in col. 6, lines 48-50 a demographic selection of a test group, e.g. A, for a new (substitute) advertisement, while another group, e.g., B, can be selected as a control group which receives normal signals rather than the new substitute advertisement.

Therefore, from the teaching of Cowan it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of delivering advertising through an interactive video distribution system of Hooks to include the television distribution system for signal substitution of Cowan in order to provide a market research signal substitution system which accurately represents the demographics of the community being served (col. 2, lines. 12-16).

Claim 38: Hooks and Cowan disclose all the elements of Claim 37, but Hooks does not disclose wherein the video server segments local advertising out of each program and marks the segmented local advertising with a zone identifier.

Cowan teaches in col. 4 lines 35-40 that substitute advertising can then be determined by comparing consumer purchase data collected from selected stores associated with zones receiving the substitute advertising with consumer data collected from selected stores associated with zones receiving normal advertising.

Therefore, from the teaching of Cowan it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of delivering advertising through an interactive video distribution system of Hooks to include the television distribution system for signal substitution of Cowan in order to provide a market research signal substitution system which accurately represents the demographics of the community being served (col. 2, lines. 12-16).

Claim 39: Hooks and Cowan disclose all the elements of Claim 38, but Hooks does not disclose wherein the video server collects a zone identifier for the zone in which the client resides.

Cowan teaches in col. 4 lines 35-40 that substitute advertising can then be determined by comparing consumer purchase data collected from selected stores associated with zones receiving the substitute advertising with consumer data collected from selected stores associated with zones receiving normal advertising.

Therefore, from the teaching of Cowan it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of delivering advertising through an interactive video distribution system of Hooks to include the television distribution system for signal substitution of Cowan in order to provide a market research signal substitution system which accurately represents the demographics of the community being served and which avoids the problems, costs and user resistance of an individually addressed arrangement (col. 2 lines 12-16).

Claim 40: Hooks and Cowan disclose all the elements of Claim 37, and Hooks further discloses wherein the video server segments the local advertising by identifying indicators for the local advertising (col. 10 lines 7-12 and figures 1 and 6 via while computer 58 of head end facility 54 is generating an entry in menu database 79, full-motion program 36 continues to be transmitted from the video switch element of video server 60).

Claim 43: Hooks discloses a method for delivering local advertising to a client in a video distribution system (col. 1, lines 6-10 via delivering advertising through an interactive video distribution system), but does not disclose the method comprising:

receiving multiple zoned copies of a given program, each zoned copy containing proper local advertising for a given zone; recording a properly zoned copy of a given program for each zone the video distribution system services; determining the zone in which the client requesting a program is located; and transmitting a properly zoned copy of the requested program to the client.

Cowan teaches in col. 4 lines 35-40 that substitute advertising can then be determined by comparing consumer purchase data collected from selected stores associated with zones receiving the substitute advertising with consumer data collected from selected stores associated with zones receiving normal advertising.

Therefore, from the teaching of Cowan it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of delivering advertising through an interactive video distribution system of Hooks to

include the television distribution system for signal substitution of Cowan in order to provide a market research signal substitution system which accurately represents the demographics of the community being served and which avoids the problems, costs and user resistance of an individually addressed arrangement (col. 2 lines 12-16).

Claim 44: Hooks and Cowan disclose all the elements of Claim 43, but Hooks does not disclose the invention comprising: receiving a request for a program from the client; and selecting the properly zoned copy of the requested program.

Cowan teaches in col. 4 lines 35-40 that substitute advertising can then be determined by comparing consumer purchase data collected from selected stores associated with zones receiving the substitute advertising with consumer data collected from selected stores associated with zones receiving normal advertising.

Therefore, from the teaching of Cowan it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of delivering advertising through an interactive video distribution system of Hooks to include the television distribution system for signal substitution of Cowan in order to provide a market research signal substitution system which accurately represents the demographics of the community being served and which avoids the problems, costs and user resistance of an individually addressed arrangement (col. 2 lines 12-16).

Claim 45: Hooks discloses the method for delivering local advertising to a client in a video distribution system (col. 1, lines 9-10 via delivering advertising through an interactive video distribution system), the method comprising:

creating a playlist with an identifiers for a given program and one or more national advertisements (col. 4 lines 9-12 and figures 2 and 3 via editing facility 28 generates advertisements or receives pre-recorded advertisements which are inserted into the original program during predetermined breaks in the original program); and

delivering the playlist to a video server (col. 6 lines 50-53 and figure 1 via after medium 30 has been prepared, it may be stored until needed by a head end facility 54 of interactive video distribution system 20);

but does not disclose: determining the zone in which a requesting client resides; and adding identifiers for one or more local advertisements to the playlist on the basis of based on the determined zone.

Cowan teaches in col. 4 lines 35-40 that substitute advertising can then be determined by comparing consumer purchase data collected from selected stores associated with zones receiving the substitute advertising with consumer data collected from selected stores associated with zones receiving normal advertising.

Therefore, from the teaching of Cowan it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of delivering advertising through an interactive video distribution system of Hooks to include the television distribution system for signal substitution of Cowan in order to provide a market research signal substitution system which accurately represents the

Art Unit: 3688

demographics of the community being served and which avoids the problems, costs and user resistance of an individually addressed arrangement (col. 2 lines 12-16).

Claim 46: Hooks and Cowan disclose all the elements of Claim 45, and Hooks further discloses the invention comprising the video server transmitting data identified in the playlist to a client for decoding and display (col. 8 lines 50-53 and figures 1, 2 and 3 via head end facility 54 proceeds to transmit full-motion program 36 through video server 60).

Claim 47: Hooks and Cowan disclose all the elements of Claim 45, but Hooks does not disclose the invention calculating the zone in which a client resides; and selecting the proper local advertising for the zone in which the client resides.

Cowan teaches in col. 4 lines 35-40 that substitute advertising can then be determined by comparing consumer purchase data collected from selected stores associated with zones receiving the substitute advertising with consumer data collected from selected stores associated with zones receiving normal advertising.

Therefore, from the teaching of Cowan it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of delivering advertising through an interactive video distribution system of Hooks to include the television distribution system for signal substitution of Cowan in order to provide a market research signal substitution system which accurately represents the

demographics of the community being served and which avoids the problems, costs and user resistance of an individually addressed arrangement (col. 2 lines 12-16).

Claim 48: Hooks and Cowan disclose all the elements of Claim 45, but Hooks does not disclose comprising:

receiving a copy of a given program for each zone that the video distribution system services; segmenting the received program into program content, national advertising and local advertising; and discarding all but one copy of zoned programming with program content and national advertising.

Cowan teaches in col. 4 lines 35-40 that substitute advertising can then be determined by comparing consumer purchase data collected from selected stores associated with zones receiving the substitute advertising with consumer data collected from selected stores associated with zones receiving normal advertising.

Therefore, from the teaching of Cowan it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of delivering advertising through an interactive video distribution system of Hooks to include the television distribution system for signal substitution of Cowan in order to provide a market research signal substitution system which accurately represents the demographics of the community being served and which avoids the problems, costs and user resistance of an individually addressed arrangement (col. 2 lines 12-16).

Claim 49: Hooks discloses a method for delivering local advertising to a client in a video distribution system (col. 1 lines 9-10 via delivering advertising through an interactive video distribution system), but does not disclose the method comprising:

receiving a copy of a given program for each zone that the video distribution system services; segmenting the program into program content, national advertising and local advertising; retaining the program content and discarding the national and local advertising; receiving a request for the program from a client in a given zone; creating a playlist identifying the programming content; calculating the program advertising zone in which the requesting client resides; adding identifiers for advertising to the playlist on the basis of based on the zone in which the client resides; and delivering the playlist to a video server.

Cowan teaches in col. 4 lines 35-40 that substitute advertising can then be determined by comparing consumer purchase data collected from selected stores associated with zones receiving the substitute advertising with consumer data collected from selected stores associated with zones receiving normal advertising.

Therefore, from the teaching of Cowan it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of delivering advertising through an interactive video distribution system of Hooks to include the television distribution system for signal substitution of Cowan in order to provide a market research signal substitution system which accurately represents the demographics of the community being served (col. 2, lines. 12-16).

Claims 52 and 53: Hooks discloses all the elements of Claim 50, but does not disclose the invention comprising updating local advertising information.

Cowan teaches in col. 1, lines 14-17 the presentation of selected information to viewers of targeted television programming and the accumulation of responses from those viewers.

Therefore, from the teaching of Cowan it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of delivering advertising through an interactive video distribution system of Hooks to include the television distribution system for signal substitution of Cowan in order to provide a market research signal substitution system which accurately represents the demographics of the community being served (col. 2, lines. 12-16).

13. Claims 32 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hooks et al. (US 6169542 B1) in view of Cowan et al. (US 6941573 B1) as applied to Claims 31 and 40 above, and further in view of Liga et al. (US 20030154128 A1).

Claim 32: Hooks and Cowan disclose all the elements of Claim 31, but do not disclose wherein identifying is conducted according to one or more of a set consisting of SCTE 35 cue packets, DTMF cues, contact closures triggered by an analog signal, network messages from an insertion system and network messages from a stat-mux/splicer.

Liga teaches on pg. 2 par. 23 lines 10-13 that embedded data may be transmitted as separate data packets in the data stream comprising the video signal, or in network signals such as Society of Cable Telecommunications Engineers (SCTE) standards, such as the DVS 253 standard for cueing advertisements. Liga et al. also teaches on pg. 7 par. 82 lines 1-7 detecting advertisements either by receiving the embedded data, or receiving a signal indicating the cessation of the program and beginning of an advertisement, where this signal may be, for example, a dual-tone frequency modulated (DTMF) signal, a DVS 253 or 380 signal, or any form of embedded command data of an analog or digital nature. Liga et al. also teaches in figure 3 and on pg. 4 par. 42 lines 9-11 that once modulated, the digital signals are combined with standard network channel broadcasts by the multiplexor 340

Therefore, from the teaching of Liga it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of delivering advertising through an interactive video distribution system of Hooks to include the method and system for displaying updated, targeted, and/or alternately formatted advertisements to a consumer of Liga in order to use targeted ads in conjunction with consumer profile information to reach interested consumers (abstract lines 3-4).

Claim 41: Hooks and Cowan disclose all the elements of Claim 40, but do not disclose wherein the indicators are selected from a set consisting of SCTE 35 cue packets, DTMF cues, contact closures triggered by an analog signal, network messages from an insertion system and network messages from a stat-mux/splicer.

Liga teaches on pg. 2 par. 23 lines 10-13 that embedded data may be transmitted as separate data packets in the data stream comprising the video signal, or in network signals such as Society of Cable Telecommunications Engineers (SCTE) standards, such as the DVS 253 standard for cueing advertisements. Liga et al. also teaches on pg. 7 par. 82 lines 1-7 detecting advertisements either by receiving the embedded data, or receiving a signal indicating the cessation of the program and beginning of an advertisement, where this signal may be, for example, a dual-tone frequency modulated (DTMF) signal, a DVS 253 or 380 signal, or any form of embedded command data of an analog or digital nature. Liga et al. also teaches in figure 3 and on pg. 4 par. 42 lines 9-11 that once modulated, the digital signals are combined with standard network channel broadcasts by the multiplexor 340.

Therefore, from the teaching of Liga it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of delivering advertising through an interactive video distribution system of Hooks to include the method and system for displaying updated, targeted, and/or alternately formatted advertisements to a consumer of Liga in order to use targeted ads in conjunction with consumer profile information to reach interested consumers (abstract lines 3-4).

Response to Arguments

14. Applicant's arguments filed June 04, 2008 have been fully considered but they are not persuasive. The following arguments have been considered and responded to:

Applicants argument (pgs. 25-27) that embedded hyperlinks occur only in Appendix A of the specification have been considered. However, the Examiner respectfully observes that the embedded hyperlinks on pg. 10, lines 5-6, pg. 21, lines 1 and 9, and pg. 44, lines 10-11 of the specification are improper and must be removed as per MPEP § 608.01 ¶ 7.29.04.

Applicants argument that claims 1-15, 17, 19-21, 24-27, 24-26, 50 and 51 that Hooks fails to identically disclose all the claimed elements recited has been considered.

Applicants argument regarding Claim 1 and reference to pg 29, par. 2 that Hooks, col. 4, lines 9-12 fails to disclose the claimed element of "an advertisement selection system (ADS) operative to select one or more advertisements according to a targeting algorithm has been considered. Examiner respectfully submits that the invention of Hooks is in fact operative to select one or more advertisements according to a targeting algorithm in col. 9, lines 45-47 where each of menus 92 is customized for the specific subscriber in response to the subscriber's registration requests.

Applicants argument that Hooks fails to disclose each and every limitation of independent claim 24, specifically "generating a playlist utilizing a correctly zoned local advertisement and the requested program" and that a generated menu entry is simply not the equivalent of a playlist that includes a correctly zoned local advertisement, as a

menu entry simply contains a listing of an advertisement while the playlist of the presently claimed invention contains both a program and a correctly zoned local advertisement that is ultimately delivered to an end user has been considered. Examiner respectfully submits that the menu entries of Hooks go beyond just providing interactive video subscribers with a place marker for interactive advertisements of interest to them. Hooks asserts in col. 14, lines 32--37 that interactive programming techniques allow a subscriber to selectively obtain supplementary advertising information related to a viewed advertisement in the form of links to data stored in memory at the head end facility, hyperlinks to the Internet, and purchase option capability. Examiner also respectfully submits that immediate feedback from the interactive video subscriber fulfils the requirement for correctly zoned local advertisements as described by Hooks above.

Applicants' argument that Hooks fails to disclose each and every element of independent claim 50, specifically "modifying the playlist in accordance with the control command, wherein the advertising information identified in the playlist is updated" has been considered. The Examiner respectfully disagrees. Hooks asserts in col. 9, lines 46-48 that each of menus 92 is customized for the specific subscriber in response to the subscriber's registration requests.

Applicants argument that generating an advertisement and inserting it into a program is not the equivalent of updating advertising information in a playlist as a result of the receipt of a control command received from the client, as generating an advertisement and inserting it into a program involves only sending the advertisement to

client, it does not account for client interaction that results in an update process of advertisement information, and that Hooks simply fails to disclose the update of advertising information resulting from a client interaction have been considered. The Examiner respectfully disagrees and submits that multiplexing video images into the video stream is equivalent to the Applicants' description of client interaction. Hooks describes in col. 7, lines 1-15 a processor 74 of figure 1 that provides a control data output to the VCR player 62 and a data output that provides a video still image to a digital media server element of the video server 60, where the video server 60 multiplexes these two inputs with other optional video inputs.

Applicants argument that Cowan fails to teach or suggest "receiving multiple zoned copies of a given program, each zoned copy containing proper local advertising for a given zone", "recording a properly zoned copy of a given program for each zone the video distribution system services", "determining the zone in which the client requesting a program is located" or "transmitting a properly zoned copy of the requested program to the client" has been considered. The Examiner respectfully disagrees. Cowan describes in col. 4, lines 15-49 that signals based on consumer demographics are distributed to separated zones of a community and that when a test is performed in which substitute advertising is transmitted to particular zones, the consumer purchase data from the selected stores of the market study area is collected.

Applicants argument that Cowan's disclosure of a comparison of purchase data from stores in different zones is simply not analogous to the receipt and subsequent recording of different versions of a given video program according to a zone, nor is it

Art Unit: 3688

analogous to a determination of a zone or area of where a requesting client is located and subsequently transmitting a video program to that zone has been considered. The Examiner respectfully disagrees for the same reason described above, since collecting data from the selected stores of the market study area constitutes recording and that signals in the form of advertising based on consumer demographics are distributed to separated zones.

Applicants' argument that the comparison of purchase data as taught in Cowan is in no way related to the claimed method of delivering local zoned advertising has been considered. The Examiner respectfully disagrees in that the video distribution system of Hooks in view of the zoned advertising of Cowan do in fact constitute delivery of zoned advertising to a person having ordinary skill in the art. The system of the current invention of Reidl et al. also requires an external zoning system based on a demographics system that would require some sort of metrics. In the case of Cowan, the metric is product sales. Further, Applicants claims 43, 45, and 49 are directed toward placing local and national advertisements, which a person having ordinary skill in the art could achieve by combining the inventions of Hooks and Cowan as described above.

Applicant's arguments with respect to independent claims 1-12, 14-50, 52 and 53 have been considered but are moot in view of the new ground(s) of rejection as above necessitated by applicant amendment to claims received June 04, 2008.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure are:

Plotnick et al. (US 20020144262 A1) teaches presenting viewers with an alternative brief version of a recorded advertisement when they choose to fast-forward through or skip (or any other trick play event) the recorded advertisement.

Felsher (US 20020010679 A1) teaches an information record infrastructure, system and method.

Rangan et al. (US 6154771 A) teaches a Real-time receipt, decompression and play of compressed streaming video/hypervideo; with thumbnail display of past scenes and with replay, hyperlinking and/or recording permissively initiated retrospectively.

Fein et al. (US 5897623 A) teaches an interface method for providing information about items on a list for interactive television.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3688

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ADAM CHORNESKY whose telephone number is (571)270-5103. The examiner can normally be reached on Monday - Thursday 7:30 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Myhre can be reached on 571-272-6722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A. Chornesky
July 29, 2008

/James W Myhre/
Supervisory Patent Examiner, Art Unit 3688

